IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.5 OF 2006

Smt.Sumitra Vithal Prabhu. ..Applicant.

V/s.

Smt.Sushila N. Shah & Ors. ..Respondents.

Mr.Nitin V.Gangal for applicant.

Mr.R.S.Datar for Respondent Nos. 1 to 4.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 6, 2006.

P.C. :

1. Mr.Datar appearing for the respondents has raised preliminary objection regarding maintainability of the revision application. He submits that the order in question has been passed under Order VII Rule 11 of the C.P.C.; and against such order revision is not the appropriate remedy. I find substance in this argument. Counsel for the applicant submits that the applicant be permitted to withdraw this petition with liberty to take recourse to other appropriate remedy. Hence dismissed as withdrawn with liberty as prayed.

2. Counsel for the applicant submits that interim protection granted by this court should be

continued. As the revision is dismissed being without jurisdiction, the question of continuing interim protection does not arise, in view of the Judgment reported in **AIR(39)1952 SC 12(The State of Orissa V/s.Madan Gopal Rungta).**

3. It will be open to the applicant to rush to the appropriate court to seek necessary protection as may be advised.